

Summary
Risk-Based Remediation Rule Workgroup
April 28, 2005

Introduction

Robert Geller, Interim Director, Hazardous Waste Program (HWP), opened the meeting and thanked everyone for their attendance. He also thanked those who provided comments and feedback on the draft guidance.

Geller clarified that, although the meeting was originally scheduled for three hours, program staff were committed to stay the entire day, as requested, to work through the many questions and issues. The goal of the meeting was to have an open forum to discuss the draft guidance, clarify various concepts, respond to comments, and ensure a common understanding – not necessarily to defend the draft guidance.

Amending and Updating the Guidance Document

The group discussed a process for revising the document as new information comes out about toxicological data, remediation technologies, etc. Atul Salhotra suggested that the department compile a technical memorandum for each item that will be changed in the next revision of the guidance document and provide them to interested parties. The state of Michigan has a process for Technical Memorandum updates. The department committed to establish a process for doing this. Appendix A provides information on the procedures for routine updates.

USEPA Comments

The group did not discuss the comments submitted by EPA Region VII staff. The department and EPA staff agreed to schedule a meeting to discuss the comments, hopefully within the next 30 days depending on the schedules of the staff involved. Workgroup members were invited to provide their input to Linda Vogt on the comments provided by EPA. Linda requested that comments be sent to her by May 12.

Cleanup Levels for Surfaces and Building Interiors

The department has agreed to add this information into the guidance as an appendix and is working on updating the information in the CALM guidance.

Geologist Registration Act

Workgroup members suggested that wording stating that a registered geologist “must log” field work be changed to state that the work can be done “by or under the supervision” of a Registered Geologist. The department agreed with this recommendation. The department also agreed to return the language on Level 1, Checklist B to read, “A professional opinion may be necessary to answer 7.a, 7.b, and Question 7.”

Use of default target levels

Because of confusion over the existence of three different Default Target Levels, according to soil type, the tables B-2, B-3, and B-4 in Appendix B containing the different DTLs will be removed. However, Table B-1 will be retained as a Default Target Level. A better description of the use of the DTL table will be included in the guidance.

Water Protection Program Water Quality Standards/Eco-Risk

The issue was raised regarding the application of Water Quality Standards to groundwater in situations where there is no complete pathway for groundwater-surface water interaction. Water Protection Program staff clarified that they allow “alternative site specific criteria” in these situations to meet Water Quality Criteria. A presentation to explain this will be posted on the MRBCA website. In the guidance, the department will provide additional information on how to navigate Table 5-1 and ecological risk.

Dispute resolution process

Group members discussed the intent behind the language in the guidance document that allows “affected parties” to participate in an informal dispute resolution process. There were questions about who is considered an “affected party” and eligible to participate and also on the relationship between the informal process and the existing formal process for appeals. The department clarified that the informal dispute resolution process would only be open to the remediating party and not outside parties and that the informal process is a way to address differences of opinion between the department and the remediating party during the course of a cleanup. The department will review and revise the draft dispute resolution process based on comments received and any other suggestions provided. A formal process to review decisions will continue to exist through the Hazardous Waste Management Commission.

Data Quality Management

Group members questioned the intent behind Appendix K, which appears to require the submission of a complex Quality Management Plan for each site. Group members discussed whether this was practical or feasible. The intent for data quality management has always been to employ a phased-in or graded approach, and this will be made clearer in the guidance. The department committed to assign a subgroup to clarify when this is required and to consider providing model plans and/or checklists to simplify the process. Julie Warren will chair this group: Subgroup members are Bob Veenstra, Tom Tunnicliff, Diane Maijer, Linda Vogt, and representatives of the Environmental Services Program and the USEPA.

Cleanup to Background Levels

RAM provided a paper on background concentrations that was prepared earlier in the MRBCA process. The department will post this paper on its website and invite comments from Workgroup members.

Chemical Specific and Site-Wide Hazard Index

Salhotra provided information from the Technical Guidance that allowed for flexibility in determining the site-wide Hazard Index.

Department of Health and Senior Services Issues

Salhotra distributed a handout listing revised target levels for chemicals based upon further review of references and correction of input values. It was agreed to adopt these changes.

DHSS commented that equations used in Appendix E for dermal contact to surface soil and groundwater reference EPA's RAGS, Volume I, Part A, 1989. They suggested that RAGS, Volume 1, Part E, 2001, be used. The group agreed to use the updated document and also to suggest that the Tanks RBCA document do the same.

Institutional Controls and Long-Term Stewardship

Many group members expressed concern with the use of the phrase "future use" rather than "reasonably anticipated future use" (RAFU) on the basis that RAFU is a well-understood, well-defined term and it had been used throughout the process of developing the guidance document. There was concern that this would result in the remediating party being forced to account for future residential use, even in situations where it is unlikely residential usage of the property will ever occur and would thus be overly burdensome and impede cleanups and development of brownfield properties. The department agreed to go back to the RAFU terminology in the guidance document. Plans were also discussed to bring the Institutional Controls Subgroup back together to address comments on this issue.

Geller again committed to continuing to work through the issues to resolution and invited stakeholders to provide any additional comments and input to assist in improving the guidance. He requested that those comments be provided to Linda Vogt.

The meeting was adjourned. A list of attendees is provided after the following list of Action Items.

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Action Items

1. The department agreed to develop a process by which the technical guidance can be updated on a regular basis as new technological or scientific information becomes available.

2. The department will meet with EPA to discuss the comments submitted by EPA. Workgroup members agreed to provide their input on the EPA comments by May 12 prior to the meeting between the department and EPA.
3. Tables B-2, B-3 and B-4 will be removed from Appendix B in the section titled "Use of Default Target Levels"
4. The department agreed to add language to the guidance document to provide clarification on how DTLs are used.
5. The department agreed to add language to the guidance document to provide clarification on what is meant by "any ecological risk" and to address the issue of when "alternative site specific criteria" will be allowed to avoid the application of Water Quality Standards to groundwater when there is no complete pathway to surface water
6. The department agrees to post the Water Protection Program's presentation on water quality standards on the internet
7. The department agreed to add language to the guidance document to provide clarification on the informal dispute resolution process, specifically who can participate and how does it relate to the formal appeal process once remedial activities are complete
8. The RAM group agreed to provide the capability for additional chemicals of concern to be added to the spreadsheet
9. Assign a subgroup to look at data quality issues and requirements. Julie Warren will chair and set up a meeting to do so.
10. Reconvene the Long Term Stewardship subgroup to consider LTS issues; revert back to "reasonably anticipated future use" terminology
11. The group agreed to the use of the 2004 PRG tables for toxicity values
12. The group agreed to use RAGS Part E 2001

Risk-Based Remediation Rule Workgroup Attendance April 28, 2005	
Tom Tunnicliff	BP America, Inc.
Bob Veenstra	URS
Earl Pabst	DNR/ESP
Tom Siedhoff	Regform/MLCo
Rob Murphy	DNR/HWP/BVCP
Steve Sturgess	DNR/GSRAD
Rich Nussbaum	DNR/HWP/Permits
Gale Carlson	MDHSS/SEPH
John Madras	DNR/ALPD
Linda Vogt	DNR/HWP
Stan Rasmussen	US Army/CREO
Stephanie Doolan	EPA/R7
Mary Grisolano	EPA/R7
Atul Salhotra	RAM Group
John Hoke	DNR/WPP
Sherry Boldt	BP America, Inc.
Robert Geller	DNR/HWP
Norella Huggins	HWMC
Peter Goode	DNR/WPP
Diane Maijer	Riverfront Environmental
John Balkenbush	DNR/HWP/Tanks
Fred Hudson	DNR/HWP/Tanks
Julieann Warren	DNR/HWP/Superfund
Chris Cady	DNR/HWP/BVCP
Todd Blanc	DHSS
Julie Westhoff *	Prairie...
Keith Piontek *	RAM Group
Tim Duggan	AGO
Judith Clark	DNR/HWP

* Attended via conference call.